

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the
82nd General Assembly.

State of Arkansas *As Engrossed: H3/10/99 H3/12/99 H3/15/99 S4/6/99*

82nd General Assembly

A Bill

Regular Session, 1999

HOUSE BILL 2067

By: Representatives Wood, *Angel, J. Jeffress*

For An Act To Be Entitled

"AN ACT TO AMEND ARKANSAS CODE SECTIONS 5-62-101
PERTAINING TO CRUELTY TO ANIMALS, AND 5-5-101
PERTAINING TO DISPOSITION OF CONTRABAND AND SEIZED
PROPERTY; AND FOR OTHER PURPOSES. "

Subtitle

"AN ACT TO AMEND ARKANSAS CODE SECTIONS
5-62-101 PERTAINING TO CRUELTY TO
ANIMALS, AND 5-5-101 PERTAINING TO
DISPOSITION OF CONTRABAND AND SEIZED
PROPERTY. "

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. LEGISLATIVE INTENT. It is the intent of the General
Assembly to prohibit and punish the mistreatment and abuse of animals. The
General Assembly recognizes that, in some instances, such abuse may escalate
into more serious offenses against people and property, and further finds that
extreme cruel neglect and abandonment cannot be tolerated in a civilized
society.

The General Assembly further finds that prosecutions of violators of
Arkansas Code § 5-62-101 have been compromised because of lack of clarity in
the law regarding the appropriate disposition of abused animals which have
been possessed under circumstances prohibited by law.

SECTION 2. *Arkansas Code 5-62-101 is amended to read as follows:*
"5-62-101. Cruelty to animals.

1 (a)(1) A person commits the offense of cruelty to animals in the first
2 degree if, except as authorized by law, he knowingly and without justification
3 causes:-

4 ~~_____ (1) Abandons any animal;~~
5 ~~_____ (2) Subjects any animal to cruel mistreatment;~~
6 ~~_____ (3) Subjects any animal in his custody to cruel neglect; or~~
7 ~~_____ (4) Kills or injures any animal belonging to another without~~
8 ~~legal privilege or consent of the owner. pain, serious physical injury or~~
9 ~~death to any domesticated animal, or he knowingly and without justification~~
10 ~~tortures, mutilates, maims, cripples, poisons or disables any domesticated~~
11 ~~animal.~~

12 ~~_____ (2) Cruelty to animals in the first degree is a Class D felony.~~

13 (b)(1) ~~Cruelty to animals is a Class A misdemeanor.~~ A person commits
14 the offense of cruelty to animals in the second degree if he knowingly and
15 without justification:

16 ~~_____ (A) Abandons any animal;~~
17 ~~_____ (B) Subjects any animal to cruel mistreatment;~~
18 ~~_____ (C) Subjects any animal in his custody to cruel neglect; or,~~
19 ~~_____ (D) Kills or injures any animal belonging to another without~~
20 ~~legal privilege or consent of the owner.~~

21 ~~_____ (2) Cruelty to animals in the second degree is a Class A~~
22 ~~misdemeanor.~~

23 ~~_____ (3) Any person who has pled guilty, nolo contendere, or been~~
24 ~~found guilty of cruelty to animals in the second degree on two previous~~
25 ~~occasions shall be guilty of a Class D felony on the third and subsequent~~
26 ~~convictions.~~

27 ~~_____ (c) Nothing in this section shall be construed as prohibiting conduct~~
28 ~~that is otherwise authorized by law or legal privilege, including, but not~~
29 ~~limited to:~~

30 ~~_____ (1) Routine accepted livestock management practices within the~~
31 ~~meaning of § 17-101-307;~~

32 ~~_____ (2) Conduct authorized by Amendment 35 of the Arkansas~~
33 ~~Constitution, Chapters 41 through 46 of Title 15 of the Arkansas Code, and~~
34 ~~Arkansas Game and Fish Commission regulations promulgated thereunder;~~

35 ~~_____ (3) Conduct authorized by § 20-19-102;~~

36 ~~_____ (4) The appropriate use of routine accepted training measures that~~

1 enforce discipline;

2 (5) The appropriate use of routine accepted fencing equipment that
3 prevents an animal from running at large; and

4 (6) The use of a humane method of destruction of an ill or injured
5 animal for the purpose of ending the suffering of the animal.

6 (d) For purposes of this section, "domesticated animal" includes dogs,
7 cats, horses, sheep, goats, cattle, swine, poultry, and any other animals that
8 have been tamed by, or are in the custody of humans, based on individual
9 instances and practice."

10
11 SECTION 3. Arkansas Code 5-5-101 is amended to read as follows:

12 "5-5-101. Disposition of contraband and seized property.

13 (a) All seized property shall be returned to the rightful owner or
14 possessor thereof except contraband owned by a defendant.

15 (b) Contraband includes:

16 (1) Any article or animal possessed under circumstances
17 prohibited by law;

18 (2) Any weapon or other instrumentality used in the commission or
19 attempted commission of a felony; and

20 (3) Any other article designated contraband by law.

21 (c) Contraband shall be destroyed, except that any article of
22 contraband capable of lawful use may in the discretion of the court having
23 jurisdiction be retained for use by the law enforcement agency responsible for
24 the arrest or sold, and the proceeds disposed of, in the manner provided by
25 subsections (e), (f), and (g) of this section~~-,~~ except that animals possessed
26 under circumstances prohibited by Arkansas Code § 5-62-101 or § 5-62-120 may
27 be released to a society which is incorporated for the prevention of cruelty
28 to animals, or to an animal control agency. The question of whether a
29 particular animal was possessed under said circumstances shall be determined
30 by a preponderance of the evidence.

31 (d) Unclaimed seized property shall be sold at public auction to be
32 held by the sheriff of the county in which the seizure took place, and the
33 proceeds, less the cost of sale and any storage charges incurred in preserving
34 it, shall be paid into the general fund of the county.

35 (e) The time and place of sale of seized property shall be advertised
36 for at least fourteen (14) days next before the day of sale by posting written

1 notice at the courthouse door and by publication in the form of at least two
2 (2) insertions, at least three (3) days apart, before the day of sale in a
3 weekly or daily newspaper published or customarily distributed in the county.

4 (f) All seized property to be sold at public sale shall be offered for
5 sale on the day for which it was advertised between 9:00 a.m. and 3:00 p.m.,
6 publicly, by auction, and for ready money. The highest bidder shall be the
7 purchaser.

8 (g) The proceeds from any sale of seized property shall be delivered to
9 the county treasurer to be held by him in a separate account for a period of
10 three (3) months. If, during this time, any person establishes to the
11 satisfaction of the treasurer that he was at the time of sale the owner of any
12 seized article sold as above provided, he shall be paid the amount realized
13 from sale of such property less the expenses of the sale. All moneys in the
14 separate account not claimed or paid within the designated three-month period
15 shall be paid into the general fund of the county."

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17 SECTION 4. All provisions of this act of a general and permanent nature
18 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
19 Revision Commission shall incorporate the same in the Code.

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21 SECTION 5. If any provision of this act or the application thereof to
22 any person or circumstance is held invalid, such invalidity shall not affect
23 other provisions or applications of the act which can be given effect without
24 the invalid provision or application, and to this end the provisions of this
25 act are declared to be severable.

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27 SECTION 6. All laws and parts of laws in conflict with this act are
28 hereby repealed.

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30 SECTION 7. EMERGENCY CLAUSE. It is hereby found and determined by the
31 Eighty-second General Assembly that adequate investigative, enforcement, and
32 intervention resources will not be available for the identification of serious
33 offenders and appropriate rehabilitative efforts unless the General Assembly
34 recognizes, by the upgrading of appropriate crimes against animals to the
35 status of a felony, the seriousness of the threat against society posed by
36 such violators; and further that the effective administration of justice

1 cannot be effected until the law is clear regarding the nature of and just
2 disposition of contraband. Therefore, an emergency is declared to exist and
3 this act being immediately necessary for the preservation of the public peace,
4 health and safety shall become effective on the date of its approval by the
5 Governor. If the bill is neither approved nor vetoed by the Governor, it
6 shall become effective on the expiration of the period of time during which
7 the Governor may veto the bill. If the bill is vetoed by the Governor and the
8 veto is overridden, it shall become effective on the date the last house
9 overrides the veto.

10 /s/ Wood
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